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June 26, 2014

Douglas Jones
Traditional Boat Works
3665 Hancock St.
San Diego, CA 92110

VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED

**Re: Clean Water Act Notice of Intent to Sue/60-Day Notice Letter
Traditional Boat Works Violations of General Industrial Permit**

Dear Mr. Jones:

Please accept this letter on behalf of the Coastal Environmental Rights Foundation (CERF) regarding Traditional Boat Works' violations of the State Water Resources Control Board Water Quality Order No. 97-03-DWQ, Natural Pollutant Discharge Elimination System (NPDES), General Permit No. CAS000001, and Waste Discharge Requirements for Discharges of Storm Water Associated With Industrial Activities Excluding Construction Activities (General Industrial Permit). This letter constitutes CERF's notice of intent to sue for violations of the Clean Water Act and General Industrial Permit for Traditional Boat Works (Facility), as set forth in more detail below.

Section 505(b) of the Clean Water Act requires that sixty (60) days prior to the initiation of a citizen's civil lawsuit in Federal District Court under Section 505(a) of the Act, a citizen must give notice of the violations and the intent to sue to the violator, the Administrator of the U.S. Environmental Protection Agency, the Regional Administrator of the U.S. Environmental Protection Agency for the region in which the violations have occurred, the U.S. Attorney General, and the Chief Administrative Officer for the State in which the violations have occurred (33 U.S.C. § 1365(b)(1)(A)). This letter provides notice of Traditional Boat Works' Clean Water Act violations and CERF's intent to sue.

I. Coastal Environmental Rights Foundation (CERF)

CERF is a non-profit public benefit corporation organized under the laws of the State of California with its main office in Encinitas, CA. CERF is dedicated to the preservation, protection, and defense of the environment, the wildlife, and the natural resources of the California Coast. Members of CERF use and enjoy the waters into which pollutants from Traditional Boat Works' ongoing illegal activities are discharged, including the San Diego River, which flows directly into the Pacific Ocean near Mission Bay. The public and members of CERF use the San Diego River and the Pacific Ocean to fish, sail, boat, kayak, surf, swim, scuba dive, birdwatch, view wildlife, and to engage in scientific studies. The discharge of pollutants by Traditional Boat Works affects and impairs each of these uses. Thus, the interests of CERF's members have been, are being, and will continue to be adversely affected by Traditional Boat Works Owners and/or Operators' failure to comply

with the Clean Water Act and the General Industrial Permit.

II. Storm Water Pollution and the General Industrial Permit

A. Duty to Comply

Under the Clean Water Act, the discharge of any pollutant to a water of the United States is unlawful except in compliance with certain provisions of the Clean Water Act. See 33 U.S.C. § 1311 (a). In California, any person who discharges storm water associated with industrial activity must comply with the terms of the General Industrial Permit in order to lawfully discharge. Traditional Boat Works enrolled as a discharger subject to the General Industrial Permit on August 21, 2006 for its facility at 3665 Hancock Street in San Diego, California.

Pursuant to Section C(1) of the General Industrial Permit, a facility operator must comply with all conditions of the General Industrial Permit. Failure to comply with the General Industrial Permit is a Clean Water Act violation. (General Industrial Permit, §C.1). Any non-compliance further exposes an owner/operator to an (a) enforcement action; (b) General Industrial Permit termination, revocation and re-issuance, or modification; or (c) denial of a General Industrial Permit renewal application. As an enrollee, Traditional Boat Works has a duty to comply with the General Industrial Permit and is subject to all of the provisions therein.

B. Failure to File An Annual Report

Section B(14) requires that all facility operators submit an Annual Report by July 1 of each year to the Executive Officer of the Regional Water Board responsible for the area in which the facility is located. The Annual Report must include a summary of visual observations and sampling results, an evaluation of the visual observation and sampling and analysis results, laboratory reports, the annual comprehensive site compliance evaluation report, an explanation of why a facility did not implement any activities required, and records specified in Section B(13) and B(14) of the General Industrial Permit. The Annual Report is necessary in order to assess the facility's compliance and prevent excess discharges from the facility into receiving waters (the San Diego River).

Traditional Boat Works is in violation of section B(14) of the General Industrial Permit for failing to submit an annual report for the 2012-2013 year. Indeed, the facility owners/operators were sent a Notice of Noncompliance for failure to submit the 2012-2013 Annual Report on November 6, 2013. (See Exhibit A). Despite this notice, Traditional Boat Works remains in violation.

Every day the Traditional Boat Works Owners and/or Operators operate the Facility without reporting, as required by the General Industrial Permit, is a separate and distinct violation of the General Industrial Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. §1311(a). The Traditional Boat Works Owners and/or Operators have been in daily and continuous violation of the General Industrial Permit's reporting requirements every day

they fail to submit reports to the Regional Board – for a total of more than 360 days. The Traditional Boat Works Owners and/or Operators are subject to penalties for all violations of the General Industrial Permit and the Clean Water Act occurring since they failed to submit an annual report for the 2012-2013 year. Thus, the Traditional Boat Works Owners and/or Operators are liable for civil penalties and violations of the reporting requirements of the General Industrial Permit and the Clean Water Act, punishable by a minimum of \$37,500 per day of violation. (33 U.S.C. §1319(d); 40 CFR 19.4).

C. Failure to Monitor

The Traditional Boat Works Owners and/or Operators have further failed to sample as required for the 2012-2013 year. Sections B(5) and (7) of the General Industrial Permit require dischargers to visually observe and collect samples of storm water discharged from all locations where storm water is discharged. Facility operators, including Traditional Boat Works Owners and/or Operators, are required to collect samples from at least two qualifying storm events each wet season, including one set of samples during the first storm event of the wet season. Required samples must be collected by Facility operators from all discharge points and during the first hour of the storm water discharge from the Facility. Sampling of stored or contained storm water shall occur any time the stored or contained storm water is released. Traditional Boat Works Owners and/or Operators have failed to meet these monitoring requirements for the 2012-2013 period and are thus subject to penalties in accordance with the General Industrial Permit – punishable by a minimum of \$37,500 per day of violation. (33 U.S.C. §1319(d); 40 CFR 19.4).

D. Inadequate Storm Water Pollution Prevention Plan

One of the main requirements for the General Industrial Permit is the Storm Water Pollution Prevention Plan (SWPPP). (General Industrial Permit §A).

The SWPPP has two major objectives: (1) to help identify the sources of pollution that affect the quality of industrial storm water discharges and authorized non-storm water discharges, and (2) to describe and ensure the implementation of BMPs to reduce or prevent pollutants in industrial storm water discharges and authorized non-storm water discharges. (General Industrial Permit, Fact Sheet, p. IX).

As part of the SWPPP, the Facility site map is a critical component. (General Industrial Permit, §A.4). The site map must identify the location of the storm water collection and conveyance system, associated points of discharge, and direction of flow. (*Id.*). The site map must also include locations where materials are directly exposed to precipitation and the locations where significant spills or leaks identified in section A.6.a.iv. of the Permit have occurred. (*Id.*). Traditional Boat Works' site map is insufficient to meet these requirements. The site map includes identification of a boat shed, tool shed, awning, and direction of slope. Absent, however, are locations where materials are exposed to precipitation and specific associated points of discharge. The site map also fails to identify the nearby inlets, storm water collection and conveyance systems and San Diego River. The map therefore

does not meet minimum requirements of the General Industrial Permit.

In addition, pursuant to section A(6) of the Permit, the SWPPP must include a narrative of industrial activities, associated potential pollutant sources, and potential pollutants that could be discharged. Sections A(7) and (8) of the Permit also require an assessment of potential pollutant sources at the facility and a description of the BMPs to be implemented at the facility that will reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges, including structural BMPs where non-structural BMPs are not effective. Though the SWPPP references "discharge from water hose," "wood particles," and "materials and wastes," these vague descriptions fail to meet the aforementioned requirements. For example, the *Industrial Stormwater Fact Sheet* for Sector R (ship and boat building and repair yards) identifies the following common pollutants associated with SIC code 3732: paint solids, heavy metals, suspended solids, solvents, dust, ethylene glycol, acid, alkaline wastes, detergents, fuel, oil, spent solvents, and bacteria. (See Exhibit B, p. 2).

Every day the Traditional Boat Works Owners and/or Operators operate the Facility with an inadequately developed and/or implemented SWPPP is a separate and distinct violation of the General Industrial Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). The Traditional Boat Works Owners and/or Operators have been in daily and continuous violation of the General Industrial Permit's SWPPP requirements every day since at least June 26, 2009. These violations are ongoing and the Traditional Boat Works Owners and/or Operators will continue to be in violation every day they fail to revise, develop, and/or implement an adequate SWPPP for the Facility. Thus, the California Metals Owners and/or Operators are liable for civil penalties of up to \$37,500 per day of violation for 1825 violations of the General Industrial Permit and the Clean Water Act.

III. Remedies

Upon expiration of the 60-day period, CERF will file a citizen suit under Section 505(a) of the Clean Water Act for the above-referenced violations. During the 60-day notice period, however, CERF is willing to discuss effective remedies for the violation noted in this letter. If you wish to pursue such discussions in the absence of litigation, it is suggested that you initiate those discussions immediately. If good faith negotiations are not being made, at the close of the 60-day notice period, CERF will move forward expeditiously with litigation.

CERF's action will seek all remedies available under the Clean Water Act § 1365(a)(d). CERF will seek to enjoin the illegal discharges unless Traditional Boat Works submits its annual discharge report as mandated by the Clean Water Act. CERF will also seek the maximum penalty available under the law which is \$37,500 per day for failure to submit the 2012-2013 Annual Report.

Traditional Boat Works must update its SWPPP and submit its annual report for the 2012-2013 year, consistent with the sampling and monitoring of storm water discharges required in the General Industrial Permit. Should Traditional Boat Works Owners and/or Operators fail to do so, CERF will file an action against Traditional Boat Works for its prior, current, and anticipated violations of the Clean Water Act.

CERF may further seek a court order to prevent Traditional Boat Works from discharging pollutants. A strong or substantial likelihood of success on the merits of CERF's claim exists, and irreparable injuries to the public, public trust resources, and the environments will result if Traditional Boat Works further discharges pollutants into the San Diego River. The cessation of Traditional Boat Works discharge will not cause substantial harm to others, and the public interest would be served in preventing discharge of pollutants into receiving waters.

Lastly, section 505(d) of the Clean Water Act, 33 U.S.C. § 1365(d), permits prevailing parties to recover costs, including attorneys' and experts' fees. CERF will seek to recover all of its costs and fees pursuant to section 505(d).

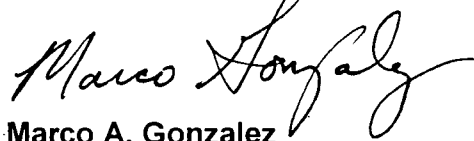
IV. Conclusion

CERF has retained legal counsel to represent it in this matter. Please direct all communications to Coast Law Group. CERF will entertain settlement discussions during the 60-day notice period. Should you wish to pursue settlement, please contact Coast Law Group LLP at your earliest convenience.

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Sincerely,

COAST LAW GROUP LLP



Marco A. Gonzalez



Livia Borak
Attorneys for
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CC:

Jared Blumenfeld, Region 9 Administrator Alexis Strauss, Deputy Regional Administrator U.S. EPA, Region 9 75 Hawthorne Street San Francisco, CA, 94105	Dave Gibson, Executive Officer Catherine Hagan, Staff Counsel San Diego Regional Water Quality Control Board 9174 Sky Park Court, Suite 100 San Diego, CA. 92123-4340
Gina McCarthy EPA Administrator Mail Code 4101M USEP A Ariel Rios Building (AR) 1200 Pennsylvania Avenue N.W. Washington, DC 20004	Thomas Howard Executive Director State Water Resources Control Board P.O. Box 100 Sacramento, CA 95812-0110

Index of Attachments

- Exhibit A. Notice of Non-Compliance
Exhibit B. Industrial Stormwater Fact Sheet, Sector R